

IN THE CIRCUIT COURT OF COLE COUNTY, MISSOURI

STATE OF MISSOURI <i>ex rel.</i>)	
Attorney General Chris Koster and)	
Missouri Department of)	
Natural Resources,)	
)	
Intervening Plaintiff,)	
)	
v.)	Case No.:11AC-CC00365
)	
SCOTT and KRISTA PORTER,)	
)	
Plaintiffs and)	
Cross-Claim Defendants,)	
)	
and)	
)	
ROBERT BAYSINGER,)	
SONYA BAYSINGER, KELLY POE,)	
and BETHANY POE ,)	
)	
Defendants.)	

CONSENT JUDGMENT

The State of Missouri and Defendants Robert and Sonya Baysinger (the “Baysingers”) and Kelly and Bethany Poe (the “Poes”) with the assistance of counsel assent to the entry of this Consent Judgment. The Court is advised that these parties consent to these terms for settlement purposes only, and that their consent is conditioned upon the Court approving the Consent Judgment in its entirety.

The Court has read the State’s Petition in Intervention, which alleges that these Defendants violated the Missouri Clean Water Law. The Court is

satisfied that the provisions of this Consent Judgment are intended to resolve the relevant issues raised by the Petition in Intervention and that the State, the Baysingers, and the Poes want to terminate this controversy and consent to the entry of this judgment without trial. The Court retains jurisdiction over the matter in order to enforce every term of this Consent Judgment.

These parties agree as follows.

I. Objectives of the Parties

1. The objectives of the parties to this Consent Judgment are to protect human health and the environment and to resolve the allegations against the Baysingers and the Poes as contained in the State's Petition in Intervention.

II. Definitions

2. Terms used herein shall have the same meaning as provided in the Missouri Clean Water Law and the regulations adopted thereunder. In addition, the following terms are specifically defined:

- a. "Apartment Building" means the four unit apartment building on North Street in Eugene, Missouri, which is owned by Robert and Sonya Baysinger;
- b. "Consent Judgment" means this Consent Judgment;
- c. "Department" means the Missouri Department of Natural

Resources;

d. "Lagoon" means the wastewater lagoon on the Eugene, Missouri property owned by Scott and Krista Porter that serves the Apartment Building as well as Kelly and Bethany Poe's residence;

e. "Plaintiff" and "State" mean the State of Missouri.

III. Jurisdiction and Venue

3. This Court has jurisdiction over the subject matter of this case pursuant to Article V, § 14 of the Missouri Constitution and § 478.070 RSMo.

4. Venue is proper in this Court pursuant to § 644.076.1 RSMo, because Cole County is "where the . . . water contaminant or point source is located or was located at the time the violation occurred."

IV. Parties Bound

5. The provisions of this Consent Judgment shall bind the Baysingers and the Poes as well as their agents, servants, employees, heirs, successors, and assigns. These provisions likewise bind all persons, firms, corporations and other entities who are, or who will be, acting in concert or privity with, or on behalf of the Baysingers and the Poes or their agents, servants, employees, heirs, successors, and assigns. The Baysingers and/or the Poes shall provide a copy of this Consent Judgment to all persons or entities retained to perform work required by it.

V. Satisfaction and Reservation of Rights

6. Upon the completion of all terms of this Consent Judgment, including the payment of civil penalties, completion of all schedules of compliance and the payment of any stipulated penalties due under the terms of this Consent Judgment, the Baysingers and the Poes are relieved of liability for the violations alleged in the State's Petition in Intervention.

7. This Consent Judgment shall not be construed to limit the rights of the State to obtain penalties or injunctive relief under the Missouri Clean Water Law or its implementing regulations or under other federal or state laws, or regulations, except as expressly stated in the preceding paragraph of this Consent Judgment.

8. Without limiting the foregoing, the parties expressly agree that nothing in this Consent Judgment shall:

- a. Prevent the State from applying to this Court for further orders or relief if violations of this Consent Judgment occur;
- b. Preclude the State from seeking equitable or legal relief for violations of the Missouri laws or regulations that were not alleged in the State's Petition in Intervention;
- c. Preclude the State from seeking equitable or legal relief for future violations of the Missouri Clean Water Law or regulations promulgated under its authority;

d. Preclude the State from seeking relief from Defendants Scott and Krista Porter for the relevant allegations detailed the State's Petition in Intervention.

9. The State of Missouri further reserves all legal and equitable remedies to address any imminent and substantial endangerment to the public health or welfare or the environment arising at, or posed by, the Baysingers' and the Poes' acts or omissions, whether related to the violations addressed in this Consent Judgment or otherwise.

VI. Injunctive Relief

10. Within six months of the effective date of this Consent Judgment, the Baysingers agree and are ordered to disconnect the Apartment Building from the Lagoon. The Apartment Building is vacant and shall remain vacant until it is connected to an on-site wastewater treatment system or any other waste disposal system approved by the Cole County Missouri Health Department.

11. Within six months of the effective date of this Consent Judgment, the Poes agree and are ordered to disconnect their residence from the Lagoon and connect it to an on-site wastewater treatment system or any other waste disposal system approved by Cole County Missouri Health Department, so long as their residence remains occupied.

VII. Civil Penalty

12. Robert and Sonya Baysinger consent to the entry of judgment against them and in favor of the State of Missouri for a civil penalty of \$1,333.00.

13. Kelly and Bethany Poe consent to the entry of judgment against them and in favor of the State of Missouri for a civil penalty of \$1,333.00.

14. The Baysingers and the Poes agree to pay the civil penalty by check made payable to the "*State of Missouri (Cole County)*" within thirty (30) days of the six month anniversary of the entry of this Consent Judgment by mailing same to: Collections Specialist, Missouri Attorney General's Office, P.O. Box 899, Jefferson City, MO 65102-0899.

VIII. Stipulated Penalties

15. In the event that either the Baysingers or the Poes fail to comply with the requirements set forth in this Consent Judgment, they shall be liable for stipulated penalties in accordance with the following schedule:

- a. \$50.00 per day for each day of non-compliance, up to thirty days;
- b. \$100.00 per day for each day of non-compliance, from thirty-one days to sixty days;
- c. \$250.00 per day for each day of non-compliance, beyond sixty days.

16. The inclusion of stipulated penalty provisions in this Consent Judgment, and the payment of stipulated penalties, does not limit the State's ability to pursue other penalties for the same acts; where a violation of this Consent Judgment also constitutes a violation of a statute, stipulated penalties may be collected in addition to statutory penalties imposed for those violations.

IX. Modification

17. Except as otherwise specified herein, this Consent Judgment may be modified or amended only upon written agreement by and among the parties, their successors and assigns and with the approval of the Court. All modifications shall be in writing and filed with the Court.

X. Costs

18. All parties are responsible for their own attorneys' fees.

These parties hereby consent to this Consent Judgment through their duly authorized representatives as indicated below.

Robert H. Baysinger
Robert Baysinger
Date: 6/1/2016

Sonya Baysinger
Sonya Baysinger
Date: 6/1/2016

Kelly Poe
Kelly Poe
Date: 6-6-16

Bethany Poe
Bethany Poe
Date: 6-3-16

MISSOURI ATTORNEY GENERAL'S OFFICE

By: Laura E. Elsbury
Laura E. Elsbury, Assistant Attorney General
Date: June 9, 2016

MISSOURI DEPARTMENT OF NATURAL RESOURCES

By: John Madras
John Madras
Title: Director

Program: Water Protection Program

Date: 6/8/16

SO ORDERED.

Date: 6/9/16

[Signature]
Honorable Daniel Green